

Senate Bill No. 1422

Passed the Senate May 5, 2016

Secretary of the Senate

Passed the Assembly August 4, 2016

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 799 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1422, Glazer. Public utilities and other service suppliers: collection of local taxes.

Under existing law, a public utility is required to bill its customers for various taxes imposed by a public entity and remit the revenues from those taxes that are collected to the public entity. The Public Utilities Act provides that a public utility or other service supplier is not liable to any customer as a result of collecting these taxes, and grants various rights to, and imposes various requirements on, public utilities and other service suppliers with respect to the imposition, repeal, or collection of the taxes. Existing law, the Digital Infrastructure and Video Competition Act of 2006, establishes a procedure for the issuance of state franchises for the provision of video service, defined to include cable service and open-video systems, administered by the Public Utilities Commission.

This bill would explicitly define the term “other service supplier” for the purpose of those provisions to include, but not be limited to, a holder of a state franchise for the provision of video service.

The people of the State of California do enact as follows:

SECTION 1. Section 799 of the Public Utilities Code is amended to read:

799. (a) With respect to all taxes enacted by any local jurisdiction, including any city, county, or city and county, including a chartered city or county, any district, including an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries, or any public or municipal corporation, and imposed on the customers of public utilities or other service suppliers, which taxes have been collected by the public utilities

and other service suppliers and remitted to the local jurisdiction all of the following shall apply:

(1) The public utility or other service supplier shall have no duty to independently investigate or inquire with the local jurisdiction concerning the validity of the tax ordinance.

(2) In connection with any actions or claims relating to or arising from the invalidity of the tax ordinance, in whole or in part, the public utility or other service supplier shall not be liable to any customer as a consequence of collecting the tax.

(3) In the event a local jurisdiction is ordered to refund the tax, it shall be the sole responsibility of the local jurisdiction to refund the tax. Unless a public utility or other service supplier is reimbursed by the local jurisdiction for the actual cost of assisting the local jurisdiction, including, but not limited to, calculating or verifying refunds, distributing refunds, providing data, or providing data processing assistance, the public utility or other service supplier shall not be required to assist the local jurisdiction to refund the tax, including, but not limited to, calculating or verifying refunds, distributing refunds, providing data, or providing data processing assistance.

(4) In any action seeking to enjoin collection of taxes imposed on customers of utilities or other service suppliers and collected by the utilities or other service suppliers, in any action seeking declaratory relief concerning the taxes, in any action seeking a refund of the taxes, or in any action seeking otherwise to invalidate the taxes, the sole necessary party defendant in the action shall be the local jurisdiction on whose behalf the taxes are collected and the public utility or other service supplier collecting the taxes shall not be named as a party in the action.

(5) If a local jurisdiction repeals the tax, reduces an existing tax rate, changes the tax base, or makes any other changes to the tax that would affect the collection and remittance of the tax, the local jurisdiction shall submit, on and after the effective date of the enactment of the change, a written notification and supply all requisite information to the public utility or service supplier, in accordance with the procedures established by the public utility or service supplier. The public utility or other service supplier shall not be required to implement the changes any earlier than 60 days from the date on which the public utility or other service provider receives the written notification and all other information required

by the public utility or other service supplier. If the 60th day is not the first day of a month, then the public utility or other service provider shall implement the changes on the first day of the month following the month in which the 60th day occurs.

(6) If a local jurisdiction adopts a new tax, the local jurisdiction shall submit, on and after the effective date of the adoption of the new tax, a written notification to the public utility or other service supplier, in accordance with procedures established by the public utility or other service supplier, requesting that the tax be collected. The public utility or other service supplier shall not be required to begin collecting the tax any earlier than 90 days from the date on which the public utility or other service provider receives written notification and all other information required by the public utility or other service supplier. If the 90th day is not the first day of a month, then the public utility or other service provider shall begin the tax collection on the first day of the month following the month in which the 90th day occurs. Nothing in this section shall be construed to prevent the public utility or other service provider from beginning the tax collection at an earlier date.

(b) For purposes of this section, “other service supplier” shall include, but not be limited to, a holder of a state franchise issued pursuant to Section 5840.

(c) The Legislature finds and declares that the limitations imposed by this section constitute an issue of statewide concern. The Legislature further finds and declares that the limitations imposed by this section are not municipal affairs as that term is used in Article XI of the California Constitution. Therefore, it is the intent of the Legislature that the limitations imposed by this section apply to all cities, counties, and cities and counties, including chartered cities and chartered counties, any district, including an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries, and any public or municipal corporation.

SEC. 2. The amendment of Section 799 of the Public Utilities Code made by this act does not constitute a change in, but is declaratory of, existing law.

Approved _____, 2016

Governor